

रजिस्टर्ड नं० वी० 461.
सरकारी लेबल।
11/1/1971
(प्रकाशित)



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११/७१

राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, मंगलवार, 2 फरवरी, 1971/13 माघ, 1892

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATION

Simla-2, the 16th January, 1971

No. 6-26/68-LR.—The Himachal Pradesh Registration of Hotels and Travel Agents Bill, 1969 (Bill No. 13 of 1969) after having received the assent of the President on the 19th December, 1970, under sub-section (2)

of section 25 of the Government of Union Territories Act, 1963 (Act No. 20 of 1963) is hereby published in the Rajpatra, Himachal Pradesh as Act No. 22 of 1970.

JOSEPH DINA NATH,
Under Secretary (Judicial)

THE HIMACHAL PRADESH REGISTRATION OF HOTELS AND TRAVEL AGENTS ACT, 1970

AN

ACT

to provide facilities to the tourists and to register persons dealing with them and for matters connected therewith.

BE it enacted by the Himachal Pradesh Legislative Assembly in the Twentieth Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Registration of Hotels and Travel Agents Act, 1969.

(2) It shall extend to the whole of Himachal Pradesh.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

(4) This Act supersedes any other previous legislation, rules or bye-laws in this behalf made by Government or by a local authority.

(5) The State Government may by notification exempt any tenancy or class of tenancy from the operation of all or any of the provisions of this Act.

2. (1) This Act shall not apply to a Hotel, Tourist Rest House, Dak Bungalow, Serai, Inn or any institution or premises run by Government or a local authority.

(2) The Government may direct that all or any of the provisions of this Act shall not, subject to such conditions and terms as it may specify, apply generally:—

(i) to premises used for a public purpose of a charitable nature or to any class of premises used for such purposes;

(ii) to premises held by a public trust for a religious or charitable purposes and let at a nominal rent; or

(iii) to premises held by a public trust for a religious or charitable purpose and administered by a local authority.

(3) The Government may also by order direct that all or any of the provisions of Part II shall not apply to such hotels or institutions, or such class of hotels or institutions subject to such terms and conditions, if any, as may be specified in the order.

3. In this Act, unless there is anything repugnant in the subject or context,—

(a) 'certificate of registration' means a certificate issued under this Act;

(b) 'hotel' means any premises or part of premises where lodging with or without board or other services are, by way of business, provided for a monetary consideration, and includes such premises which are given on rent during season;

(c) 'hotel-keeper' means any person who operates a hotel as proprietor and includes a person managing the affairs of a hotel on behalf of the proprietor;

- (d) 'mal-practice' includes cheating, charging a price higher than that displayed or remuneration higher than that fixed under this Act, failure to display prices, failure to give cash memos, failure to execute an order according to the terms agreed or within a reasonable time after the expiry of the period for performance of the obligation, not providing accommodation when available, or charging rent higher than fixed;
- (e) 'Official Gazette' means the Rajpatra, Himachal Pradesh;
- (f) 'part' means a part of this Act;
- (g) 'prescribed' means prescribed by rules made under this Act;
- (h) 'prescribed authority' means the authority notified as such by the Government;
- (i) 'Government' means the Government of Himachal Pradesh;
- (j) 'local authority' means the Deputy Commissioner, Municipal Committee, Small Town Committee, Notified Area Committee, Panchayat and Public Trust in respective sphere of jurisdiction;
- (k) 'tourist area' means any area notified by the Government in the Official Gazette to be a tourist area for the purposes of this Act;
- (l) 'season' means the period from September 16 to June 30. Rest of the period of the year will constitute 'off season';
- (m) 'travel agent' means a person engaged in the business of making travel arrangements for tourists for a monetary consideration and includes a tourist guide and a Shikar outfitter.

Explanation.—The expression "travel arrangements" includes:—

- (a) arrangements for transportation;
- (b) arrangements for lodging with or without board; and
- (c) rendering other services, such as assistance for providing convenience for game and sports.

PART II

REGISTRATION OF HOTELS

Registration.

4. (1) Every person intending to operate a hotel in a tourist area shall, before operating a hotel, apply for registration to the prescribed authority in the prescribed manner.

(2) Notwithstanding anything contained in sub-section (1), any person already operating a hotel in a tourist area on the date a notification under clause (k) of section 3 of Part I is issued, shall apply for registration within three months from the aforesaid date.

Certificate of registration.

5. The prescribed authority shall, unless registration is refused under section 6 direct the entry of the name and particulars of the hotel and the hotel-keeper to be entered on the register maintained for the purpose and issue a certificate of registration to the hotel-keeper in the prescribed manner.

Refusal to register a hotel.

6. The prescribed authority may refuse registration of a hotel under this Act on any of the following grounds, namely:—

- (a) if the hotel-keeper is convicted of:—
 - (i) any offence involving moral turpitude; or
 - (ii) any offence under the Prevention of Food Adulteration Act, 1954 and two years have not elapsed since the termination of the sentence imposed upon him.
- (b) if the hotel-keeper has been declared an insolvent by a court of competent jurisdiction and has not been discharged;

(c) if the name of the hotel-keeper has been removed from the register under clause (b) or clause (c) or clause (d) of section 7 and six months have not elapsed since the date of removal; and

(d) if the premises do not conform to the prescribed standards.

Provided that no application for registration shall be refused unless the person applying for registration has been allowed an opportunity of being heard.

7. The prescribed authority may, by an order in writing, remove the name of a hotel from the register and cancel its certificate of registration on any of the following grounds, namely:—

(a) if the hotel-keeper ceases to operate the hotel in the tourist area for which he is registered;

(b) if the hotel-keeper is convicted of any offence:—

(i) involving moral turpitude;

(ii) under the Prevention of Food Adulteration Act, 1954;

(c) if the hotel-keeper is declared as an insolvent by the court of competent jurisdiction;

(d) if the hotel-keeper fails to comply with any of the provisions of this Act or rules framed thereunder.

(e) if a lodger in a hotel becomes a nuisance for a neighbour in an adjoining building and the prescribed authority is satisfied thereof.

8. Before removing a name from the register under section 7, the prescribed authority shall give a notice to the hotel-keeper of the ground on which it is proposed to take action and hold any inquiry in the presence of the hotel-keeper, giving him a reasonable opportunity of showing cause against it.

9. (a) The prescribed authority may, in consultation with the Committee to be constituted in the prescribed manner, fix a fair rate to be charged for board, lodging or other service provided in a hotel at such amount as, having regard to the circumstances of the case, he deems just (the prescribed authority may also fix the percentage of accommodation of daily, and monthly lodgers respectively in a hotel).

(b) The prescribed authority shall also fix the number of lodgers to be accommodated in each room or specified accommodation in the hotel.

(c) The prescribed authority may fix a fair rate which may be different for season and off season period separately for,—

(i) lodging with reference to each room or specified accommodation and the number of the lodgers to be accommodated;

(ii) board, partial or full; and

(iii) other service; and

(d) The prescribed authority may fix fair rates separately for daily and monthly lodgers.

Explanation:—For the purpose of this part, a lodger who agrees to reserve accommodation in a hotel for a period of less than a month shall be deemed to be a daily lodger.

10. The prescribed authority may, from time to time, revise the fair rates, the percentage accommodation or the number of lodgers fixed under section 9.

11. Till such time as the prescribed authority has not fixed fair rates, percentage of accommodation and the number of lodgers, as required under section 9 above, the hotel-keeper shall fix and notify these to the prescribed authority by March 31, each year. Separate rates will be fixed for 'season' and 'off season' periods.

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Display of information.

Charges recoverable in excess of fair rate.

No ejectment to be made if fair rate paid.

When hotel-keeper may recover possession.

12. Where under section 9 or section 10 the prescribed authority has fixed or revised the fair rates, the percentage of accommodation or the number of lodgers, or even in case where the prescribed authority has not fixed rates, etc., the hotel-keeper shall display a notice of the fair rates, percentage of accommodation, the number of lodgers and all the provisions of this Act relating thereto in a conspicuous manner in the hotel and also in each room or set of rooms. An agent of the hotel-keeper must also keep a copy certified by the prescribed authority of such information on his person.

13. (1) Notwithstanding any agreement to the contrary, no hotel-keeper shall charge any amount in excess of the rates fixed.

(2) Any sum paid by the lodger in excess of the fair rate shall be recoverable by him at any time within one year from the date of payment from the hotel-keeper and may, without prejudice to any other remedy for recovery, be adjustable by such lodger for any amount payable by him to the hotel.

14. No hotel-keeper shall evict or refuse board or other service to a lodger so long as he pays or is ready and willing to pay the rate fixed and observes and performs the other conditions of his agreement in so far as they are consistent with the provisions of this Act:

Provided that where under section 9 or section 10, the prescribed authority has fixed or revised the percentage of accommodation for daily and monthly lodgers respectively, the hotel-keeper may refuse accommodation to any daily or monthly lodger if the accommodation in respect of such class of lodgers is fully occupied.

15. Notwithstanding anything contained in this Act, a hotel-keeper shall be entitled to recover possession of the accommodation provided by him on obtaining a certificate from the prescribed authority that:—

- (a) the lodger has been guilty of conduct which is nuisance or any annoyance to any adjoining or neighbouring lodger; or
- (b) the accommodation is reasonably and bona fide required by the owner of the hotel either for his own occupation or for any other cause which may be deemed satisfactory by the prescribed authority; or
- (c) the lodger staying on monthly basis is habitually irregular (or has made a default for three months) in making payment of the charges for board, lodging or other service provided in the hotel; or
- (d) the lodger has failed to vacate the accommodation on the termination of the period of the agreement in respect thereof;

Provided that before issuing a certificate under this clause, the prescribed authority would take into consideration the vacancies, if any, in the accommodation for daily and monthly lodgers at that time; or

- (e) the lodger has done any act which is inconsistent with the purpose for which the accommodation is provided to him or which is likely to affect adversely and substantially the hotel-keeper's interest therein;

Provided that before issuing the certificate, a reasonable opportunity will be given to the lodger to represent his case.

16. Every hotel-keeper shall present detailed bills to the person residing in the hotel and other customers and shall give receipt in acknowledgement of all payments.

Hotel-keeper to present detailed bills.

17. If a hotel-keeper confirms a booking at a particular rate, it will be honoured at the same rate even if accommodation at higher rates only is available at the time of arrival of the person for whom accommodation stands booked.

18. The prescribed authority or any other officer authorised by him to inspect hotel premises from time to time will be allowed free access with or without prior notice.

—PART IV—

TRAVEL AGENTS

19. (1) No person shall carry on the business of a travel agent in a tourist area unless he is registered in accordance with the provisions of this Act.

(2) Every person intending to act as a travel agent in a tourist area shall before he commences to act as such apply for registration to the prescribed authority in the prescribed manner.

(3) Notwithstanding anything contained in sub-section (2), any person acting as a travel agent in a tourist area on the date a notification under clause (k) of section 3 is issued shall apply for registration, within three months from the aforesaid date.

20. The prescribed authority shall, unless registration is refused under section 21, direct the entry of the name and particulars of the travel agent to be entered on the register maintained for the purpose and issue a certificate of registration to the travel agent in the prescribed form.

21. The prescribed authority may refuse the registration of a travel agent under this Act on any of the following grounds, namely:—

- (a) if he does not possess any of the prescribed qualifications;
- (b) if he has been convicted of any offence involving moral turpitude and two years have not elapsed since the termination of the sentence imposed upon him;
- (c) if he has been declared an insolvent by a court of competent jurisdiction and has not been discharged; and
- (d) if his name has been removed from the register under this Act and six months have not elapsed since the date of removal;

Provided that no application for registration shall be refused unless the person applying for registration has been allowed an opportunity of being heard.

22. The prescribed authority may, by an order in writing, remove the name of a travel agent, from the register and cancel his certificate of registration on any of the following grounds, namely:—

- (a) if he ceases to act as a travel agent in a tourist area;
- (b) if he is convicted of any offence involving moral turpitude or under any of the provisions of this Act or rules made thereunder; and
- (c) if he is declared an insolvent by a court of competent jurisdiction.

23. Before removing a name from the register under section 22, the prescribed authority shall give notice to the travel agent of the ground on which it is proposed to take action and hold an inquiry in the presence of that person, giving him a reasonable opportunity of showing cause against it.

Fixation of rates.

24. The prescribed authority may by a notification in the Official Gazette fix fair rates which may be charged by a travel agent for the services rendered by him to a person engaging him as such.

Revision of fair rates.

25. The prescribed authority may, from time to time, revise the fair rates fixed under section 24.

When the travel agent fixes and notifies the rates.

26. Till such time as the prescribed authority has not fixed fair rates, the travel agent shall fix and notify these to the prescribed authority by March 31, each year.

Display of information.

27. Where under section 24 or section 25, the prescribed authority has fixed or revised the fair rates or even in case the prescribed authority has not fixed rates, the travel agent shall display a notice in a conspicuous place in his office of the fair rates and such information as may be prescribed.

Charges paid in excess of the fair rate.

28. (1) Notwithstanding any agreement to the contrary, no travel agent shall charge any amount in excess of the rate fixed.

(2) Any sum paid by a person in excess of the fair rate shall be recoverable by him at any time within one year from the date of payment from the travel agent and may, without prejudice to any other remedy for recovery, be adjustable by such person for any amount payable by him to the travel agent.

No refusal to render services.

29. No travel agent shall, without a reasonable excuse, refuse to make available his services to any person so long as he pays and is ready and willing to pay the rates fixed.

Travel agents to present detailed bills.

30. Every travel agent shall present detailed bills to the person availing his services and shall give receipts in acknowledgement of all payments received.

Travel agents not to demand tips, etc.

31. Travel agent is not to demand tips, gratuity, presents or commission other than as provided under this Act from any person engaging him or from any hotel-keeper in whose hotel such person resides or intends to reside.

PART IV

APPEALS

Appeal.

32. Any person aggrieved of an order of the prescribed authority passed under sections 6, 7, 9, 10 or 15 of this Act may, within 30 days of the order, appeal against it to the prescribed appellate authority in the prescribed manner.

PART V

OFFENCES AND PENALTIES

Penalty for default in registration.

33. If any person who is required to apply for registration under this Act fails or omits to do so in accordance with the provisions of this Act, he shall be punishable with fine not exceeding Rs. 1,000 for first offence and in the case of continuing offence with Rs. 50 for each day the offence continues after such conviction.

34. If any person required to make a statement under this Act wilfully makes a false statement, he shall be punishable with imprisonment for a term which may extend to three months or with fine not exceeding Rs. 500 or with both.

35. Any person who lends, transfers or assigns the certificate of registration issued under this Act, without the permission in writing of the prescribed authority, shall be punishable with imprisonment for a term which may extend to six months or with fine not exceeding Rs. 2,000 or with both.

36. (1) Any person registered under this Act shall at all times, on demand, produce and show his certificate to any of the following persons, namely:—

(a) the prescribed authority or any officer duly authorised by it in this behalf;

(b) any bona fide customer.

(2) Any person who refuses on demand to show his certificate to, or allow to be read by, any of the persons authorised to demand it, shall be punishable with fine not exceeding Rs. 500.

37. Any hotel-keeper or travel agent who commits a mal-practice in a tourist area or contravenes any other provision of this Act for which no specific penalty has been provided, shall be punishable with imprisonment for a term which may extend to three months or with fine not exceeding Rs. 1,000 or with both.

38. Notwithstanding anything contained in this Act or in the Criminal Procedure Code, all offences under this Act may be tried summarily; and a Magistrate (not below the rank of Magistrate 1st Class) trying an offence under this Act may impose a sentence of fine exceeding Rs. 1,000 but not exceeding the fine as provided under this Act for such offence.

39. No prosecution shall be instituted against any person for any offence under this Act, except on a complaint made by the prescribed authority or the officer authorised by it in this behalf.

40. The prescribed authority shall have all the powers of a civil court under the Code of Civil Procedure, while trying a suit, in respect of the following matters, namely:—

(i) summoning and enforcing attendance of the complainant or the person against whom complaint is made under this Act and witnesses required in connection therewith;

(ii) compelling the production of any documents; and

(iii) examining witnesses on oath;

and may summon and examine *suo moto* any person whose evidence appears to be material.

Explanation.—For purposes of enforcing the attendance of witnesses and the other persons mentioned above, the local limits of the jurisdiction of the prescribed authority shall be the limits of Himachal Pradesh.

Composition of offences.

41. (1) The prescribed authority may accept from any person who is reasonably suspected of having committed an offence under this Act, a sum of money by way of composition for such offence and may out of the money so received compensate the person against whom the offence has been committed to the extent, the prescribed authority deems reasonable.

(2) On the composition of offence, no further proceeding in respect thereof shall be taken against the accused and if any proceeding has already been instituted against him in a court, the composition shall have the effect of acquittal except in the case of any offence falling within the provisions of sections 419 and 420 of the Indian Penal Code, 1860.

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PART VI

MISCELLANEOUS

Notification of changes.

42. (1) Whenever a business for which a certificate of registration is held by a person devolves by inheritance or otherwise upon any other person, or undergoes a change in respect of any particular entered in the registers under this Act, such person shall, within one month of the date of such devolution or change, notify in writing the fact to the prescribed authority.

(2) The prescribed authority shall make necessary changes in the register maintained for the purpose and in the certificate of registration.

(3) Notwithstanding anything contained in sub-section (2), the prescribed authority may remove from the register the name of the person in whose favour the certificate was issued and cancel the certificate of registration, if the successor is not qualified to be registered under this Act.

Return of the certificate of registration.

43. When a certificate of registration is cancelled under this Act, the person holding the certificate shall within seven days from the date of service in a prescribed manner of the order of cancellation, return it to the prescribed authority.

Duplicate certificate.

44. If a certificate of registration issued under this Act is lost, damaged or destroyed, the prescribed authority shall, on an application made in that behalf by the person holding such certificate and on payment of the prescribed fee, issue a duplicate certificate.

Certificate of registration to be kept exhibited.

45. The certificate of registration shall be kept by the person holding it in a conspicuous place at the principal place of his business and if he has no principal place of business or acts otherwise than in any particular place, he shall keep it on his person.

Publication of list of persons removed from the register.

46. The prescribed authority shall from time to time publish in the Official Gazette and such other manner as it deems fit the names and addresses of persons and of the hotels whose names have been removed from the register and have been refused registration under this Act.

Proceedings before the prescribed authority to be judicial proceedings.

47. All proceedings before the prescribed authority under this Act shall be deemed to be judicial proceedings for the purpose of sections 193 and 228 of the Indian Penal Code.

Indemnity.

48. No suit, prosecution or other legal proceeding whatsoever shall lie against the Government or any person in respect of anything which in good faith done or intended to be done under this Act.

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49. The Government may by notification in the Official Gazette direct that all or any of the provisions of this Act or of the rules made thereunder shall, with such exceptions, adaptations or modifications as may be considered necessary, apply to persons doing the business in a tourist area of letting or plying for hire House-boats, Dongas, Bathing-boats, Shikaras, Automobile vehicles, Tongas, Dandis, Ponies or to such other persons as may be specified in the notification. The prescribed authority may fix the rates to be charged for the services to be rendered.

50. (1) The Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for:—

- (a) the maintenance of registers, books and forms by hotel-keeper or travel agent for conduct of business;
- (b) the form of application for registration and for certificate of registration;
- (c) the fee for registration;
- (d) the manner of giving notices under this Act;
- (e) manner of publication of the names and addresses of the persons removed from the register or to whom registration has been refused;
- (f) classification of hotels and travel agents;
- (g) the place where the prescribed authority shall hold enquiry under this Act;
- (h) all matters expressly required to be prescribed under this Act.

(3) All rules made under this section shall be subject to the condition of previous publication.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before the Himachal Pradesh Legislative Assembly while it is in session and if, before the expiry of the session in which it is so laid or the session immediately following, the House makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(APPLICATION FORM FOR THE REGISTRATION OF A HOTEL)

To

The Prescribed Authority,

Sir,

I/We request that I/we may be registered as Hotel-keeper and my/our hotel known....., situated at.....may be registered under the Himachal Pradesh Registration of Hotels and Travel Agents Act, 1969, in respect of.....

The other particulars of the hotel are as under:—

1. Name of the person with full address intending to operate a hotel or is already operating a hotel ..
2. Name of the tourist area where the hotel is to be run ..
3. Name of the proprietor/proprietors ..
4. Name of the agent/agents/employee/employees ..
5. Hotel with or without board ..
6. Details of accommodation ..
7. Permanent home address ..
8. Any other business which the applicant is carrying on in any tourist area in Himachal Pradesh or outside

Yours faithfully,

Dated, the

Signature of the applicant

(APPLICATION FORM FOR THE RESTORATION OF LOST OR DESTROYED CERTIFICATE)

To

The Prescribed Authority,

Sir,

I/We submit that my/our Registration Certificate as issued under No....., dated the.....has been lost/damaged/destroyed and in order to continue my/our business in accordance with the law I/we am/are desirous of having a duplicate certificate which may kindly be issued in my/our favour on payment of the prescribed fee. The other particulars of my/our business are as under:—

- (i)
- (ii)
- (iii)
- (iv)
- (v)

Yours faithfully,

Dated, the.....

Signature of the Hotel-keeper/Travel Agent with address.

DEPARTMENT OF TOURISM, HIMACHAL PRADESH
GOVERNMENT, SIMLA

CERTIFICATE OF REGISTRATION OF HOTEL

This is to certify that.....son of....., resident of.....proprietor of..... hotel.....has/have been registered under the Himachal Pradesh Registration of Hotels and Travel Agents Act, 1969, to operate the said hotel in.....area.

Dated, the..... Designation with the seal of office:

(APPLICATION FOR REGISTRATION OF TRAVEL AGENT)

To
The Prescribed Authority,

Sir,

I/We request that I/we may be registered as a Travel Agent within the meaning of Himachal Pradesh Registration of Hotels and Travel Agents Act, 1969, forarea. The particulars required for the purpose are given hereunder:-

1. Name of applicant with address
2. Name of firm and its registered address
3. Year when the firm was founded
4. Whether the firm is a Proprietary/ Partnership/Private or Public Ltd. Co.
5. Month and date when the firm was registered
6. Capital invested
7. Names of Director/Directors/ Partner/Partners, etc.
8. Details of interests, if any, in other business of the Director/Directors/ Partner/Partners, etc.
9. Names of bankers (Attached reference from the bank)
10. Names of auditors. A balance sheet and profit and loss statement pertaining to the travel business as prescribed under Company Law must be submitted by each applicant

11. Income tax clearance certificate from the appropriate authority ..
12. All other activities undertaken by the firm, besides travel arrangements ..
13. (i) Volume of tourist traffic handled upto the date of application showing foreign and internal tourist traffic separately ..
 (ii) Clientele—any special tourist parties, their size, frequency, etc. ..
 (iii) Amenities arranged for foreign tourists
 (iv) Steps taken to promote home tourist traffic and details of the parties handled, if any ..
14. Branches of the firm in the country. The staff employed at headquarters and branches ..
15. Particulars of foreign firms, if any, with which tourist traffic business connections have been established ..
16. Name of the guides approved by the Directorate of Tourism having been employed (with their addresses) ...

Yours faithfully,

Dated.....

Signature of the Director/
Directors/Partner/Partners/Proprietor.

**DEPARTMENT OF TOURISM, GOVERNMENT OF HIMACHAL
PRADESH, SIMLA**

CERTIFICATE OF REGISTRATION OF "TRAVEL AGENTS"

This is to certify that.....s/o.....t/o.....
has/have been registered under the Himachal Pradesh
 Registration of Hotel and Travel Agents Act, 1969, to carry on the business
 of 'Travel Agents' in Himachal Pradesh.

Signature:

Dated.....

Designation with the seal of office.